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C O N F I D E N T I A L KATHMANDU 001811

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SUBJECT: NEPAL'S ELECTION COMMISSION RULES AGAINST PRIME
MINISTER'S FACTION

REF: KATHMANDU 1515

Classified By: AMB. MALINOWSKI. REASON: 1.5 (B,D).

1. (SBU) Summary: On September 17 the Election Commission (EC) handed down what it described as a provisional decision that the faction of the Nepali Congress Party led by former Prime Minister and Nepali Congress Party President Girija Prasad Koirala has the right to use the party name, symbol and flag during upcoming national elections November 13. The rival faction, led by current Prime Minister Sher Bahadur Deuba, will likely take the EC decision to the Supreme Court and attempt to "freeze" use of the party symbol by the Koirala faction during the elections. End summary.

2. (U) On September 17 the three-member Election Commission (EC) handed down its long-awaited decision on the legitimacy of rival Nepali Congress Party factions. The question has been pending since the Central Working Committee of the Nepali Congress, headed by Party President and former Prime Minister Girija Prasad Koirala, expelled current Prime Minister Sher Bahadur Deuba from the party in May. The decision determines which faction may use the party name, flag--and most important in a country with about a sixty percent literacy rate--symbol during upcoming general elections scheduled for November 13.

3. (U) In an official statement, the EC said that after reviewing the cases presented by both factions, it "was still not satisfied" fully about the legitimacy of the competing claims. In fact, the statement continued, both factions claim an "almost equal number" of General Convention members--the criterion by which party leadership is determined. Without enough time before imminent elections to consider more fully the competing claims, however, the EC statement said its members decided "for the time being" that the Koirala faction, which registered with the EC before the deadline, "is granted recognition" explicitly "for the purpose of the forthcoming general elections." The Deuba faction, the decision continues, should thus apply to the EC for a separate symbol and party name within seven days if it plans to contest elections.

4. (SBU) A Deuba confidant told us the faction is consulting lawyers on next steps. He indicated that the PM may appeal the EC decision to the Supreme Court and ask the Court to "freeze" use of the party symbol during elections.

5. (C) In a September 12 meeting, King Gyanendra hinted to the Ambassador that the EC decision would go Koirala's way. A few days later, Major General Rukmangud Katuwal of the National Security Council told the Ambassador that the Chief Election Commissioner would back Deuba and that one of the other Commissioners, a long-time Koirala supporter, would back the former Prime Minister. The deciding vote would be cast for Koirala by the third Commissioner under the influence of three-time former PM Lokendra Bahadur Chand, who now heads the National Democratic Party and who harbors a long-standing animosity toward Deuba. The third Commissioner, according to Katuwal, has a "mitr" relationship with Chand. (Note: A "mitr" relationship is analogous to the "blood brother" relationship among some groups of native Americans, involving resultant obligations and favors. End note.)

6. (C) Comment: Without the well-known Nepali Congress Party symbol, Deuba and company will face a tough electoral challenge. The EC decision appears to leave the PM with two alternatives: to attempt a reconciliation with long-time rival Koirala or to challenge the ruling in the Supreme Court. It appears for now that Deuba seems to opting for the latter. We expect the loss of the symbol may prompt a certain amount of defection from the Deuba ranks over to Koirala.
MALINOWSKI